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By: **Delegates Frush, Conroy, Gaines, Griffith, Holmes, Hubbard, Menes,  
Moe, Ross, and Vaughn**

Introduced and read first time: February 5, 2003

Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Sales Tax on Food and Beverages - Commercial Entertainment Zones**

3 FOR the purpose of authorizing the governing body of a county to impose a certain tax  
4 on the sale of certain food and beverages in certain commercial entertainment  
5 zones in the county; establishing limits on a county's authority to impose a  
6 certain tax; establishing procedures for the collection of a certain tax; requiring  
7 certain vendors to file certain returns and make certain payments; authorizing  
8 certain vendors to deduct certain expenses; authorizing the governing body of a  
9 county to enforce certain unpaid taxes; requiring a county to distribute certain  
10 revenue in a certain manner after a certain deduction; defining certain terms;  
11 and generally relating to authorizing the governing body of a county to impose a  
12 certain tax on the sale of certain food and beverages in certain commercial  
13 entertainment zones in the county.

14 BY adding to  
15 Article 24 - Political Subdivisions - Miscellaneous Provisions  
16 Section 9-607  
17 Annotated Code of Maryland  
18 (2001 Replacement Volume and 2002 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article - Tax - General  
21 Section 11-102(b)  
22 Annotated Code of Maryland  
23 (1997 Replacement Volume and 2002 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
25 MARYLAND, That the Laws of Maryland read as follows:

**Article 24 - Political Subdivisions - Miscellaneous Provisions**

2 9-607.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
4 INDICATED.

5 (2) "BEVERAGE" DOES NOT INCLUDE AN ALCOHOLIC BEVERAGE, AS  
6 DEFINED IN § 5-101 OF THE TAX - GENERAL ARTICLE, IF THE ALCOHOLIC BEVERAGE  
7 IS SOLD FOR CONSUMPTION OFF THE PREMISES.

8 (3) "COMMERCIAL ENTERTAINMENT ZONE" MEANS AN AREA LOCATED  
9 IN A MUNICIPALITY THAT PROVIDES AN INDEPENDENT POLICE FORCE OR ROAD  
10 CLEANUP AND MAINTENANCE OR BOTH THAT:

11 (I) IS DEFINED BY THE MUNICIPALITY AS A COMMERCIAL  
12 ENTERTAINMENT ZONE AND APPROVED BY THE GOVERNING BODY OF THE COUNTY  
13 IN WHICH IT IS LOCATED;

14 (II) BY REASON OF THE NATURE OF COMMERCIAL DEVELOPMENT,  
15 HAS AN UNUSUAL INFLUX OF COMMERCIAL VISITORS; AND

16 (III) BY REASON OF THE INFLUX, REQUIRES MUNICIPAL SERVICES  
17 IN UNUSUAL NUMBER OR MAGNITUDE.

18 (4) "FOOD", "PREMISES", AND "SUBSTANTIAL GROCERY OR MARKET  
19 BUSINESS" HAVE THE MEANINGS STATED IN § 11-206 OF THE TAX - GENERAL  
20 ARTICLE.

21 (5) "TAXABLE PRICE" HAS THE MEANING STATED IN § 11-101 OF THE TAX  
22 - GENERAL ARTICLE.

23 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE GOVERNING  
24 BODY OF A COUNTY MAY IMPOSE, BY ORDINANCE, AND COLLECT A TAX ON THE SALE  
25 OF FOOD AND BEVERAGES IN A COMMERCIAL ENTERTAINMENT ZONE IN THE  
26 COUNTY.

27 (C) A TAX IMPOSED UNDER THIS SECTION DOES NOT APPLY TO:

28 (1) A SALE OF FOOD THAT IS EXEMPT FROM THE STATE SALES AND USE  
29 TAX UNDER § 11-206 OF THE TAX - GENERAL ARTICLE;

30 (2) A SALE OF FOOD OR BEVERAGES FOR CONSUMPTION OFF THE  
31 PREMISES IF SOLD BY A VENDOR THAT OPERATES A SUBSTANTIAL GROCERY OR  
32 MARKET BUSINESS AT THE SAME LOCATION WHERE THE FOOD IS SOLD, EVEN IF THE  
33 SALE IS SUBJECT TO THE STATE SALES AND USE TAX UNDER TITLE 11 OF THE TAX -  
34 GENERAL ARTICLE; OR

35 (3) A SALE OF FOOD OR BEVERAGES IN VENDING MACHINES.

1 (D) A TAX IMPOSED UNDER THIS SECTION MAY NOT EXCEED 1% OF THE  
2 TAXABLE PRICE OF A SALE OF FOOD AND BEVERAGES THAT ARE SUBJECT TO THE  
3 TAX.

4 (E) A TAX IMPOSED UNDER THIS SECTION SHALL BE:

5 (1) COLLECTED FROM THE BUYER ON BEHALF OF THE COUNTY BY THE  
6 VENDOR THAT MAKES A SALE THAT IS SUBJECT TO THE TAX; AND

7 (2) HELD IN TRUST BY THE VENDOR FOR THE COUNTY.

8 (F) (1) A VENDOR REQUIRED TO COLLECT A TAX IMPOSED UNDER THIS  
9 SECTION SHALL FILE A RETURN WITH THE COUNTY ON OR BEFORE THE 21ST DAY OF  
10 EACH MONTH.

11 (2) A RETURN REQUIRED UNDER THIS SECTION:

12 (I) SHALL BE MADE ON THE FORM THAT THE COUNTY REQUIRES;  
13 AND

14 (II) SHALL CONTAIN THE INFORMATION THAT THE COUNTY  
15 REQUIRES, INCLUDING:

16 1. THE GROSS PROCEEDS OF THE VENDOR DURING THE  
17 PRECEDING MONTH FROM SALES THAT ARE SUBJECT TO THE TAX;

18 2. THE TAXABLE PRICE OF SALES FOR THAT MONTH ON  
19 WHICH THE TAX IS COMPUTED; AND

20 3. THE TAX DUE.

21 (G) (1) A VENDOR THAT MAKES A SALE THAT IS SUBJECT TO A TAX IMPOSED  
22 UNDER THIS SECTION SHALL PAY THE TAX THAT THE VENDOR COLLECTS FOR THAT  
23 SALE WITH THE RETURN THAT COVERS THE PERIOD IN WHICH THE VENDOR MAKES  
24 THAT SALE.

25 (2) FOR THE EXPENSE OF COLLECTION AND REMITTANCE OF A TAX  
26 IMPOSED UNDER THIS SECTION, A VENDOR THAT TIMELY FILES A RETURN AND  
27 REMITS THE TAX MAY DEDUCT AN AMOUNT EQUAL TO 1.5% OF THE GROSS TAX  
28 COLLECTED BY THE VENDOR.

29 (H) THE GOVERNING BODY OF A COUNTY MAY PROVIDE BY LAW FOR:

30 (1) THE IMPOSITION OF INTEREST AND PENALTIES FOR FAILURE TO PAY  
31 THE TAX AS REQUIRED; AND

32 (2) COLLECTION OF UNPAID TAX, INTEREST, OR PENALTIES.

33 (I) FROM THE TOTAL REVENUE DERIVED FROM A TAX IMPOSED UNDER THIS  
34 SECTION, THE COUNTY SHALL:

1 (1) DEDUCT A REASONABLE PERCENTAGE NOT TO EXCEED 3% FOR THE  
2 COST OF IMPOSING AND COLLECTING THE TAX; AND

3 (2) AFTER THE DEDUCTION IN ITEM (1) OF THIS SUBSECTION,  
4 DISTRIBUTE THE REVENUE TO THE MUNICIPAL AUTHORITY RESPONSIBLE FOR  
5 PROVIDING POLICE AND PUBLIC SERVICES FOR THE COMMERCIAL ENTERTAINMENT  
6 ZONE IN WHICH THE TAX IS IMPOSED.

7 **Article - Tax - General**

8 11-102.

9 (b) (1) A county, municipal corporation, special taxing district, or other  
10 political subdivision of the State may not impose any retail sales or use tax except:

11 (i) a sales tax or use tax that was in effect on January 1, 1971;

12 (ii) a tax on the sale or use of:

13 1. fuels;

14 2. utilities;

15 3. space rentals; or

16 4. any controlled dangerous substance, as defined in § 5-101  
17 of the Criminal Law Article, unless the sale is made by a person who registers under  
18 and complies with Title 5, Subtitle 3 of the Criminal Law Article; [or]

19 (iii) a tax imposed by a code county on the sale or use of food and  
20 beverages authorized under Article 25B, § 13H of the Code; OR

21 (IV) A SALES TAX IMPOSED IN A COMMERCIAL ENTERTAINMENT  
22 ZONE UNDER ARTICLE 24, § 9-607 OF THE CODE.

23 (2) Paragraph (1) of this subsection may not be construed as conferring  
24 authority to impose a sales and use tax.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 July 1, 2003.